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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,498	12/14/2000	Vic De Zen	DSJ-10670US	5768

7590

09/17/2002

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 09/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/735,498

Applicant(s)
VIC DE ZEN

Examiner
YVONNE M. HORTON

Art Unit
3635



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jul 10, 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-7, 10, 11, and 13-16 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 8, 9, and 12 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other: _____

Serial Number: 09/735,498

Art Unit: 3635

DETAILED ACTION

Withdrawal of Allowable Subject Matter

1. The indicated allowability of claim 11 is withdrawn in view of the newly discovered reference(s) to LYONS et al. Rejections based on the newly cited reference(s) follow.

Claim Objections

2. Claims 11 and 15 stand objected to because of the following informalities: In claim 11, line 3, --the-- should be inserted after "when". In claim 15, lines 4 and 7, --the-- should be inserted after "when".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 15 and 16 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 15 recites the limitation "said retaining channel" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1, 2, 5, 7, 10, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,799,449 to LYONS et al. In reference to claims 1, 2 and 10, LYONS et al. discloses the use of a first (30) and second (300) one piece integrally molded circumscribing frame members which fit against one another to form an article retaining recess formed by

radially extending lip (32) that extends between and around the first (30) and second (300) circumscribing frame members. Regarding claim 5, the frame members (30,300) are injection molded plastic, column 4, lines 56. Regarding claim 7, each of the first (30) and second (300) frame members are one side of a window sash and the retaining recess that is formed by the lip (32) aids in retaining a glazing unit (20,22,24,26). In further reference to claim 10 and regarding claim 14, the frame members (30,300) are face-to-face wherein the lip (32) serves as the laterally projecting wall and securing means (200) and "toy tabs" (column 4, lines 66-67) aid in interengaging the frame members (30,300). Regarding claim 13, the retaining recesses formed by the lip (32) locate the glazing units (20,22,24,26) wherein the glazing units (20,22,24,26) are retained between the first (30) and second (300) frame members by securing means (200).

Claim Rejections - 35 USC § 103

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,799,449 to LYONS et al., As detailed in paragraph #7 above, LYONS discloses the basic claimed frame except for the members being compression molded plastic members. The applicant is reminded that the method of forming a device is not germane to the issue of patentability of the device itself. Although LYONS et al. does disclose the method of compression molding, it would have been obvious to one having ordinary skill in the art that the frame of LYONS et al. could have been compression molded since compression and injection molding are art recognized equivalent methods of forming frame members.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,799,449 to LYONS et al. LYONS et al. discloses the basic claimed frame except for explicitly stating the lips have a width less than half of the spacing between frame members. It would have been an

obvious matter of design choice to one having ordinary skill in the art at the time the invention was made to select the width of the lip according to the use intended. For instance, if the lip is to aid in connecting two frame members, the selection of the lip width is determined by how close it is required or desired for the frame members to be with respect to one another. The selection of the lip width is also determined by how much spaced is required or desired between the two frame members.

Allowable Subject Matter

11. Claims 3,4,9 and 12 remain objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. Claims 15 and 16 remain as being allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

14. The examiner's statement of reasons for allowance remains as indicated in the previous Office Action dated 7/10/02.

Response to Arguments

15. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH

Primary Examiner

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9/17/02